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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.E.A. No.120 of 2006

Date of decision: 15.1.2007

Commissioner of Central Excise, Chandigarh ...Appellant

Versus

M/S R.B.Forgings (P) Ltd., ...Respondent

CORAM: HON'BLE MR.JUSTICE M.M.KUMAR
HON'BLE MR.JUSTICE RAJESH BINDAL

Present: Mr.Kamal Sehgal, Advocate for the revenue

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RAJESH BINDAL, J.

This appeal has been preferred by the revenue proposing following substantial questions of law:-

1. Whether the Tribunal was justified in dismissing the application for rectification of mistake only on the ground of limitation?
2. Whether the Tribunal was justified in rejecting the application for condonation of delay on the ground of absence of statutory provision for condonation of delay?

After hearing learned counsel for the revenue, we do not find that the questions sought to be raised can be termed as substantial questions of law. The Tribunal having dismissed the application for rectification of mistake as barred by limitation, this Court does not find any illegality in the order passed. Still further learned counsel for the revenue is unable to

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dispute that even the issue on merits has been gone into by this Court earlier in CEA No.8 of 2005 (**Commissioner, Central Excise Commissionerate, Chandgiarh Vs. M/S Regency Industrial Corporation, Mandi Gobindgarh)**, decided on 21.8.2006, wherein, following earlier order of this Court in **Vikas Pipes Vs. Commissioner of C.EX., Chandigarh-II,** 2003 (158) ELT 680, it was held that the assessee was to be entitled to the benefit of Notification No.58/97-CE(NT) dated 30.8.1997 in respect of deemed Modvat credit, irrespective of proving discharge of liability by manufacturer/supplier of the inputs.

Accordingly, this appeal is dismissed.

(Rajesh Bindal)
Judge

January 15 ,2007 **(M.M.Kumar)**
Pka **Judge**